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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/727,283	12/02/2003	Alex R. Bellehumeur	134/88	4676
27612	7590	06/27/2006	EXAMINER	
AVERILL & VARN 8244 PAINTER AVE. WHITTIER, CA 90602			NGUYEN, KIEN T	
			ART UNIT	PAPER NUMBER
			3711	

DATE MAILED: 06/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/727,283

Applicant(s)

BELLEHUMEUR ET AL.

Examiner

Kien T. Nguyen

Art Unit

3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 18-20 is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10 is/are rejected.
- 7) ☒ Claim(s) 8 and 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-10, 18-20, drawn to a sport rink, classified in class 472, subclass 92.
- II. Claims 11-17, drawn to a method for playing hockey, classified in class 473, subclass 471.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as process of making and process of using the product. The use as claimed cannot be practiced with a materially different product. Since the product is not allowable, restriction is proper between said method of making and method of using. The product claim will be examined along with the elected invention (MPEP § 806.05(i)).

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the product as claimed can be used in a materially different process of using that product such soccer or handball.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Edgar Averill, Jr. on 08/13/04 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-10, and 18-20. Affirmation of this election must be made by applicant in replying to this Office action. Claims 11-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-4, 6, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Martin U.S. Patent 6,126,551 in view of Sullivan U.S. Patent 6,354,969.

Martin disclosed a facility with multiple rinks and connecting corridors. The rinks could have a square playing area (see column 2, lines 37-39). The rinks of Martin can be used for many playing surface (see column 2, lines 53-56) and a typical ice hockey rink has first and second goal at first and second of the rink, respectively. It is noted that a typical ice hockey rink does not have faces of the first and second goals are even with the first and second ends respectively. However, Sullivan disclosed a sport playing surface having faces of goals (68) are even with the first and second ends (606), respectively, of the playing surface. Therefore, it would have been obvious to one of ordinary skill in the art to modify the playing surface of Martin with the faces of the goals

even with the ends of the playing surface as taught by Sullivan for the advantage of allowing the playing surface of Martin to adapt to different types of team sports.

Regarding the specific dimensions of the rink as set forth in claims 2-7, such dimensions are considered a matter of design choice to accommodate different environment, type of sports, or user. Therefore, it would have been a matter of design choice to set up the rink of Martin with any specific dimension to accommodate any desired environment, types of sports, or user.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Sullivan as applied to claim 1 above, and further in view of Saunders U.S. Patent 5,820,470.

It is noted that the combination of Martin and Sullivan failed to specifically show a chamfered corners of the rink. However, such chamfered corners for a sport rink or arena are well known in the art as evidenced playing arena of Saunders with chamfered corners as shown in Fig. 1. Therefore, it would have been obvious to one of ordinary skill in the art to modify the combination of Martin and Sullivan with the chamfered corners as taught by Saunders for the purpose of accommodating any specific activity or type of sport.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Martin in view of Sullivan as applied to claim 1 above, and further in view of Johnston et al. U.S. Patent 6,004,217.

It is noted that Martin failed to teach the use a bumper along at least a portion of a base of the dasher boards. However, Johnston et al teach a dasher board having a

bumper (13) along at least a portion of a base. Therefore, it would have been obvious to one of ordinary skill in the art to modify the rink of Martin with the dasher board as taught by Johnston et al for the purpose of enhancing the safety for the players.

Allowable Subject Matter

Claims 18-20 are allowed.

Claims 8 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The enclosed references are cited for interest.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kien T. Nguyen whose telephone number is (703) 308-2493. The examiner can normally be reached on 7:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (703) 308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free):


Kien T. Nguyen
Primary Examiner
Art Unit 3711

Ktn